

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201411106	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/20/2014 6:00 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 4/20/2016	EO SOL 4/20/2016	
Date/Time CV Reported Tue, 10/21/2014 7:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/30/2014 1:55 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Witness(es)</b>	<b>Home Address</b>				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Bravo Zayas	17717	953601	042 PCT		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.POM Bravo Zayas	Force: PO Bravo Zayas struck § 87(2)(b) with an asp.				

### Case Summary

On October 20, 2014, at around 6 p.m. § 87(2)(b) was inside the first floor area of his residence, § 87(2)(b) in the Bronx, § 87(2)(b). § 87(2)(b) was attending a relapse prevention talk, and was sitting in a chair because of his back pain. The leader of the talk requested that § 87(2)(b) vacate the chair, but the latter refused. The supervisor of § 87(2)(b) who was identified via the investigation, called the police to request that § 87(2)(b) be removed to the hospital. PO Bravo Zayas and PO Martin Phillips of the 42<sup>nd</sup> Precinct responded. They first spoke with § 87(2)(b) who explained that § 87(2)(b) was an emotionally disturbed person. § 87(2)(b) refused to leave despite the officers' continual requests. To enforce cooperation, PO Zayas struck § 87(2)(b) ankles with an asp, twice (**Allegation A**). § 87(2)(b) was not arrested, but sent to § 87(2)(b). He claimed to have suffered a great deal of pain to his ankle that prevented him from walking for a few days.

### Mediation, Civil and Criminal Histories

Mediation was not presented to § 87(2)(b) due to injuries that he claimed to have received from the incident at the time of his initial statement. He has not filed a notice of claim with the City of New York regarding this incident (enc. F-1) as of December 12, 2014. § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed against PO Zayas (enc. A-1), who has been a member of the service for two years.
- This is the second CCRB case filed by § 87(2)(b) (enc. A-2). § 87(2)(b)

### Findings and Recommendations

#### Allegation A – Force: PO Bravo Zayas struck § 87(2)(b) with an asp.

It is undisputed that PO Zayas struck § 87(2)(b) in the ankles with an asp. § 87(2)(b) stated that he had not wanted to go to the hospital, and was refusing the officers' requests for cooperation (enc. C-1 – C-4). After the officers repeatedly tried to talk with him, § 87(2)(b) headed towards the elevator to go up to his room. That was when PO Zayas pulled out his asp, causing § 87(2)(b) to retreat backwards before the officers grabbed his arms, and PO Zayas struck his ankles with the asp.

PO Zayas explained that § 87(2)(b) had called the police and requested that § 87(2)(b) be sent to the hospital (enc. D-1 – D-7). § 87(2)(b) had apparently not been taking his medication, and was “out of control.” The officers were therefore dealing with an emotionally disturbed person, and a hospital visit was required. After walking around with § 87(2)(b) for a few minutes, speaking to him about going to the hospital, the officers tried to prevent § 87(2)(b) from walking through a door by grabbing his arms. However, § 87(2)(b) made his way through, and also took a swing at PO Zayas. That was when PO Zayas realized that § 87(2)(b) would not leave voluntarily. He called for backup, and drew his asp out in preparation to forcibly remove § 87(2)(b).

The investigation spoke with § 87(2)(b) and another staff member at § 87(2)(b), § 87(2)(b) on November 14, 2014 (enc. C-5). Both confirmed § 87(2)(b) resistance during the incident, and corroborated PO Zayas' statement.

The entire incident is captured on video (enc. B-5). It depicts § 87(2)(b) refusal to follow the officers, and the alleged swing at PO Zayas. It is unclear though whether § 87(2)(b) intended to strike PO Zayas, or to get away from PO Zayas' grasp. The footage also shows § 87(2)(b) physically refusing to be subdued by PO Zayas and PO Phillips, and physically struggling with the officers for about a minute before PO Zayas strikes § 87(2)(b) in the ankles.

The medical records from § 87(2)(b) (enc. MR-1 – MR-65) revealed that § 87(2)(b) has a history of schizophrenia. Emergency Medical Technicians described him as “violent, combative, and agitated at the shelter.” § 87(2)(b) was complaining about pain to his lower back and right ankle, but the physician found no weakness or swelling to those areas.

Patrol Guide Procedure 203-11 stipulates that an officer is permitted to use only that amount of force necessary to overcome a resisting an individual, and take a mentally ill or emotionally disturbed person into custody (enc. AA-1 – AA-2).

§ 87(2)(g)

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Team: Pod 15

Investigator:	_____	Yanjiao Chen	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date